

REGULAR MEETING OF THE OKLAHOMA WORKERS' COMPENSATION COMMISSION

~ APPEALS ~

Friday, October 28, 2022
9:00 a.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

MINUTES

Members present: Chairman Jordan Russell, Commissioner Megan Tilly, and Commissioner Scott Biggs.

Staff present to support the Commission: Alexander Watkins, WCC; Lindsey Christopher, WCC; and Monica Pack, WCC.

STATEMENT OF OKLAHOMA OPEN MEETING LAW COMPLIANCE

Chairman Russell stated the administrative meeting was being held in compliance with the Open Meetings Act.

CALL TO ORDER **Presiding Appellate Officer, Commissioner Tilly**

Call to order 9:00 a.m. by Commissioner Tilly, Presiding Appellate Officer.

ROLL CALL **Presiding Appellate Officer, Commissioner Tilly**

After the roll call was taken, Commissioner Tilly announced the presence of a Quorum.

A. MINUTES:

- The drafted Minutes of the Regular Appeals Meeting of September 16, 2022, were considered for approval.

Motion: Commissioner Tilly made a motion to approve the Regular Appeals Meeting of September 16, 2022, minutes.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: MINUTES APPROVED

B. Appeal Hearings before the Commission En Banc from Orders Issued by the Commission's Administrative Law Judges

1. Guy Stapleton v. City of Tulsa (OWN RISK #10435), File #CM3-2017-01626A

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan H. Jones appeared for the Claimant and Travis R. Colt appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to take preliminary action to strike everything except the first sentence of section 4 of the Findings and Conclusions so that it may read, "That respondent is awarded a Section 89 credit in the amount of \$4,693.23," and affirm the rest of the order.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED IN-PART AND VACATED IN-PART

2. Barbara Bowers v. Dean A. McGee Eye Institute and Valley Forge Insurance Co., File #CM3-2019-01167R

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Rick E. Romano appeared for the Claimant and Angela Odell Reinstein appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

3. David Inglee v. City of Tulsa (OWN RISK #10435), File # CM3-2019-03746A

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Harlan Pinkerton Jr. appeared for the Claimant and Travis R. Colt appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to take preliminary action to remand the action to the Administrative Law Judge for a determination of permanent disability either in Class 1 or Class 4.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER REMANDED

4. Andrea Gallegos v. Standard Roofing Co. Inc. and Valley Forge Insurance Co., File #CM3-2019-07375Y

Respondent filed an appeal from the order issued by Administrative Law Judge Blodgett. Alex Forbes appeared for the Claimant and Angela Odell Reinstein appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

5. Diane Maples v. Moore Public Schools (OWN RISK #20127), File #CM3-2021-00908F

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. E.W. Keller appeared for the Claimant and James C. Ferguson appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

6. Jackie Tiry v. Macys Corporate Services Inc. and Macys Inc. (OWN RISK), File #CM3-2019-05760Q

Claimant filed an appeal from the order issued by Administrative Law Judge Lawyer. Ray Lahann appeared for the Claimant and Chad R. Whitten appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

7. **Bill Todd v. Elite Properties and WESCO Insurance Co. (AMTRUST), File #CM3-2021-01696J**

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Michael Fagan appeared for the Respondent.

Motion: Commissioner Tilly moved to continue this case to the next available docket.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: CONTINUED

8. **Rose Turner v. Macys Inc. (OWN RISK), File #CM3-2020-07260F**

Respondent filed an appeal from the order issued by Administrative Law Judge Blodgett. Craig R. Armstrong appeared for the Claimant and Chad R. Whitten appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

C. **Commission Consideration of Adoption of Final Orders in the Following Cases:**

1. **Julian Slater v. MITF, File #CM3F-2019-00356F**

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Bob Burke appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

This case came on for Oral Argument on May 20, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Chairman Russell moved to take preliminary action to affirm the decision of the Administrative Law Judge's Order and instructed the law clerk or other staff member to draft a proposed order with finding of facts and conclusions of law, to be considered for continued action at a future meeting.

Motion: Chairman Russell moved to adopt the order, as circulated.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER ADOPTED

2. **Raymond Miller v. La Quinta Inn, Global Core Stillwater LLC, and Employers Preferred Insurance Co. (FKA AMCOMP PREFERRED), File #CM3-2020-00616F**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Michael R. Green appeared for the Claimant and Kelley Bodell appeared for the Respondent.

This case came on for Oral Argument on May 20, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Biggs moved continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

3. **Wanda Gibby v. MITF, File #CM3F-2019-07638F**

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. J. Kord Hammert appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

This case came on for Oral Argument on May 20, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Biggs moved continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

4. **Joseph Handley v. Nationwide Fixture Installation Inc. and Hanover American Insurance Co., File #CM3-2019-00808J**

Both parties filed an appeal from the order issued by Administrative Law Judge Egan. Darrel Paul appeared for the Claimant and Rose M. Sloan appeared for the Respondent.

This case came on for Oral Argument on June 24, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commissioner Biggs moved to take preliminary action to affirm in-part, in regards to consequential injury, and remand in-part, in regards to intervening accident, and remand back for determination of medical treatment and instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

Motion: Commissioner Biggs moved continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

5. Donnie Deramus v. City of Tulsa (OWN RISK #10435), File #CM3-2019-03320J

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan H. Jones appeared for the Claimant and Travis R. Colt appeared for the Respondent.

This case came on for Oral Argument on June 24, 2022. After reviewing the record, hearing oral argument of counsel and deliberating, Chairman Russell moved deny motion to accept supplemental brief by Respondent and to take preliminary action to strike the language in paragraph 4 of the Findings and Conclusions beginning at, "That this award is not dispositive of claimant's rights to participates in the grievance process attendant to said rights," and authorized the Commission's Chairman to sign and file order on behalf of the Commission by Commission's clerk.

Motion: Commissioner Biggs moved continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

6. Elias Solis v. MITF, File #CM3F-2019-07725A

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. Daniel M. Davis appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

This case came on for Oral Argument on August 26, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

7. Norma Chavez v. Lopez Foods Inc. (OWN RISK), File #CM3A-2017-07276R

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. W. Wicker and James G. Devinney appeared for the Claimant. Norman Lemonik appeared for the Respondent.

This case came on for Oral Argument on August 26, 2022. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to affirm the decision of the Administrative Law Judge's Order and instructed the law clerk or other staff member to draft a proposed order with finding of facts and conclusions of law, to be considered for continued action at a future meeting.

Motion: Commissioner Biggs moved continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

ADJOURNMENT

Motion: Chairman Russell moved to adjourn the meeting at approximately 3:05 p.m.

Second: Commissioner Biggs.

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.